

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	) Fair Hearing No. H-04/09-200
	)
Appeal of	)

INTRODUCTION

The petitioner appeals an "Administrative Review Decision" of the Office of Child Support Enforcement (OCS). The preliminary issue is whether the petitioner's grievance is properly before the Human Services Board and whether the Board has jurisdiction to consider it.

DISCUSSION

The petitioner participated in a status conference on May 12, 2009 with the attorney for OCS and this hearing officer. Following that conference, the record was held open until August 7, 2009 to allow the petitioner to submit additional written arguments. Based on OCS's and the petitioner's written filings, and the petitioner's oral representations, the following facts appear to be either not in or beyond dispute.

The petitioner has an outstanding order of child support arrearages issued by the State of Maryland in 1994. Maryland has made several requests of Vermont OCS over the years to

seek to enforce that order. The petitioner has fought a continuing legal battle in many forums challenging the validity of the Maryland order and the authority of OCS and Vermont Courts to enforce it. A history of the relatively recent events in the matter is contained in an Order of the Vermont Supreme Court dated February 4, 2009 (DKT. No. 2008-331), a copy of which is attached.

The petitioner states that he filed the instant appeal following an Administrative Review decision by OCS dated March 17, 2009 that apparently rejected his latest challenge to the ongoing enforcement proceedings. It also appears that the petitioner has another ongoing case regarding OCS's actions pending before a Vermont Family Court magistrate.

#### ORDER

The petitioner's appeal is dismissed because the Board lacks subject matter jurisdiction to hear it.

#### REASONS

Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter 11. The Board has repeatedly held that under those statutes all grievances regarding the establishment of an amount of child support and the methods used to collect it are

exclusive matters for the court that has jurisdiction to establish and enforce child support orders. See, e.g., Fair Hearing Nos. J-02/09-104 and 19,426.

The Board has also held that it has jurisdiction over OCS administrative decisions only in very limited cases.<sup>1</sup> These cases are mainly limited to the jurisdictional mandate found in the statute governing Board decisions, which reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

The petitioner is not, and again makes no claim to be, an applicant for or recipient of services from OCS. OCS's own regulations describe appeals to the Human Services Board as "general grievances", and give as examples a delay or failure to receive a support allocation or an improper

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<sup>1</sup> These cases include at least two prior decisions dismissing similar appeals brought by this petitioner. See Fair Hearing Nos. 17,895 and 16,892.

distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A.

Even if the petitioner has a valid reason to contest the ongoing child support arrearages and surcharges he owes, these are issues that can only be considered and resolved by the courts with subject matter jurisdiction over the underlying action. The Board cannot obtain jurisdiction of any claim in lieu of or simultaneously with the Family Court. To do so would be plainly inconsistent with the federal Uniform Interstate Family Support Act. See 15B V.S.A. §§ 101 *et seq.*

Inasmuch as consideration of the petitioner's grievance in this matter lies exclusively with the Family Court that has issued the underlying decrees, the petitioner's appeal must be dismissed.<sup>2</sup>

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<sup>2</sup> The petitioner's written filings included an unexplained and unsupported "demand" for "recusal" of Board Chair Hudson from these proceedings. This request is hereby denied.